

§ 789.32

allocated for each purpose, and the duration of the allocations action (for example, anticipated start and end dates);

(7) An evaluation of the impact of the proposed allocations action on the civilian market; and

(8) Proposed actions, if any, to mitigate disruptions to civilian market operations.

(b) [Reserved]

§ 789.32 Precedence over priority rated orders.

If a conflict occurs between an allocations order and an unrelated rated order or priorities directive, the allocations order takes precedence.

§ 789.33 Controlling the general distribution of a material in the civilian market.

(a) No allocations by USDA may be used to control the general distribution of a material in the civilian market, unless the Secretary has:

(1) Made a written finding that:

(i) Such material is a scarce and critical material essential to the national defense; and

(ii) The requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship;

(2) Submitted the finding for the President's approval through the Assistant to the President and National Security Advisor and the Assistant to the President for Homeland Security and Counterterrorism; and

(3) The President has approved the finding.

(b) [Reserved]

§ 789.34 Types of allocations orders.

(a) The three types of allocations orders that may be used for allocations actions are:

(1) Set-asides;

(2) Directives; and

(3) Allotments.

(b) [Reserved]

7 CFR Ch. VII (1–1–16 Edition)

§ 789.35 Elements of an allocations order.

(a) Each allocations order will include:

(1) A detailed description of the required allocations action(s);

(2) Specific start and end calendar dates for each required allocations action;

(3) The Secretary's written signature on a manually placed order, or the digital signature or name on an electronically placed order, of the Secretary. The signature or use of the name certifies that the order is authorized as specified in this part and that the requirements of this part are being followed;

(4) A statement that reads: "This is an allocations order certified for national defense use. [Insert the legal name of the person receiving the order] is required to comply with this order, in accordance with the provisions of 7 CFR part 789;" and

(5) A current copy of the APAS regulation (7 CFR part 789).

(b) [Reserved]

§ 789.36 Mandatory acceptance of allocations orders.

(a) A person must accept every allocations order received that the person is capable of fulfilling, and must comply with such orders regardless of any rated order that the person may be in receipt of or other commitments involving the resource(s) covered by the allocations order.

(b) A person must not discriminate against an allocations order in any manner such as by charging higher prices for resources covered by the order or by imposing terms and conditions for contracts and orders involving allocated resources(s) that differ from the person's terms and conditions for contracts and orders for the resource(s) prior to receiving the allocations order.

(c) If circumstances prevent a person from being able to accept an allocations order, the person must comply with the provisions specified in § 789.60 upon realization of the inability to accept the order.